

**KENTUCKY BOARD OF EDUCATION  
REGULAR MEETING  
OCTOBER 3-4, 2007**

**STATE BOARD ROOM  
1ST FLOOR, CAPITAL PLAZA TOWER  
FRANKFORT, KENTUCKY**

***SUMMARY MINUTES***

The Kentucky Board of Education held its regular meeting on October 3-4, 2007, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. The Board conducted the following business:

**Wednesday, October 3, 2007**

***CALL TO ORDER***

Chair Joe Brothers called the meeting to order at 8:30 a.m. local time and asked for the roll to be called.

***ROLL CALL***

Present for the meeting were C.B. Akins, Kaye Baird, Joe Brothers, Bonnie Lash Freeman, Judy Gibbons, Doug Hubbard, David Rhodes, Janna Vice and David Webb. Jeanne Ferguson joined the meeting in process. Absent were Brad Cowgill and Keith Travis. (Note: Keith Travis joined the meeting in process later in the afternoon for the Audit Committee.)

***REPORT OF THE SECRETARY OF THE EDUCATION CABINET***

Secretary Laura Owens reported the following:

- The funding request at the Cabinet level will ask for the continuation and expansion of KEN.
- The Pre-K to 16 Council had asked that the Cabinet have a carry forward request for the data repository; however, the needs have changed in this area to connect two separate systems, one for KDE and one for the Council on Postsecondary Education. Kevin Noland, Brad Cowgill and the Secretary have discussed this situation and agree on the approach.
- A group has been put together to look at the assessment of the special needs population and how much of the assessment is self-imposed and how much is because of No Child Left Behind. Deputy Secretary Kerry Briggs from the

United States Department of Education will be coming to Kentucky to meet with the group by the end of October.

- Kevin Noland has indicated there are no dollars for the implementation of WorkKeys and the Secretary said we will look for those dollars within her office or Workforce.

David Webb commented he would like to welcome Dr. Fred Carter to the Secretary's staff.

### ***APPROVAL OF MINUTES***

Doug Hubbard moved approval of the August 8-9 and September 5, 2007 regular meeting minutes and the July 28, 2007 special meeting minutes. David Webb seconded the motion and it carried.

### ***REPORT OF THE EXECUTIVE DIRECTOR OF THE EDUCATION PROFESSIONAL STANDARDS BOARD***

Dr. Phil Rogers reported the following:

- The new teacher survey is completed and the results can be found on the handout. The results are broken down online by university. Overall, first year teachers do not feel as prepared as they need to be, especially in working with students with disabilities and closing the achievement gap.
- The new master's redesign is moving forward and the content is out for public comment.
- Work is now focusing on the advanced preparation of principals.
- The Education Professional Standards Board will start looking at elementary mathematics in October.

At this point, C.B. Akins expressed concerns on teachers being qualified to teach in A5 and A6 schools. He thought that provisions need to be put in place to address the needs of students in these settings.

Dr. Rogers replied that he would bring this before the Education Professional Standards Board and work on it jointly with the Kentucky Department of Education. He promised to bring back a report to the Board on who is teaching in these schools and then move forward to pull folks together to address these issues.

### ***REPORT FROM THE PRE-K TO 16 COUNCIL***

Council Chair Jeanne Ferguson gave the following report:

- The Pre-K to 16 Council met on September 19 and new members were introduced.
- Dr. Fred Carter, who is new in Secretary Owens' office, gave the Cabinet report.
- Dianne Bazell presented a history of the Pre-K to 16 Council.
- Linda Pittenger and Julia Harmon provided a report on the Individual Learning Plan.
- JoAnn Lang gave a report on the Kentucky National Math and Science Grant.
- The role of parents was discussed and will be continued at the next meeting, which will be in December.

### ***REPORT OF THE COMMISSIONER OF EDUCATION***

Interim Commissioner Kevin Noland reported the following:

- Board members were given a copy of "The Missing Piece of the Proficiency Puzzle" from the Parents Advisory Council. This publication focuses on how to be proficient with parent involvement and can be used by school audit teams and others that work directly in schools. It is on the Kentucky Department of Education website and was produced with the help of a national consultant. Kentucky is the first to have a tool of this kind. The financial impact of this work will be a point of discussion tomorrow when the budget comes forward.
- The CATS results were released yesterday and we are improving at all levels. A deeper discussion will occur later this morning.
- Secretary Owens talked about the funding of WorkKeys, which will be taken to the Education Assessment and Accountability Review Subcommittee next week. Hopefully, Secretary Owens can find some additional dollars to fund the implementation of WorkKeys.
- The legislature did not fund the end-of-course pilots, but the Department identified federal Title II funds in the amount of \$400,000 for this purpose. All of the requests for proposal bids were too high, but Dr. Bill Bush at the University of Louisville has items that can be used. It looks like we can proceed with the pilot but will have to seek funding for statewide implementation.
- Demetria Choice, the 2007 Minority Superintendent Intern, was introduced. She is interning in the Kenton County School District with Superintendent Tim Hanner.

- The following new Kentucky Department of Education employees were introduced: Carlos Felix, Amy Wallot, Cathy Bush and Susan Riddell.
- Steve Schenck was welcomed back following his recovery from surgery.
- The KDE Yes Team Member of the Month for September, Sharman Noe, was introduced along with the KDE Yes Team Member of the Month for October, Suzanne Lee. Both were invited to have lunch with the Board.

***DISCUSSION WITH THE CHRISTIAN COUNTY SCHOOL DISTRICT ON ITS VOLUNTARY PARTNERSHIP ASSISTANCE TEAM (VPAT) PROGRAM***

Interim Commissioner Kevin Noland indicated that out of this meeting the Christian County School District should address a plan for improvement in closing the achievement gap and ensure that it is owned by the district. He then turned it over to Associate Commissioner Steve Schenck.

Associate Commissioner Schenck indicated that the Kentucky Department of Education had worked at both the school and district level to improve academic success. He noted that there are a few schools and districts that are still struggling and stated Christian County had a score of 72.6 at the midpoint with an 82.1 biennial goal. He emphasized it would be a struggle for them to meet this. Schenck continued that in the material the Board is reviewing, it shows several of the district's schools have been in Level 2 and 3 assistance over the years. He noted there to be a couple of bright spots in Penbrooke and Highland Elementaries where the highly skilled educator and strong principals worked together to pull the schools out of assistance. Schenck indicated that currently there are 16 schools in the district with seven that are ten points or more from their goal. He emphasized that the demographics show some of the neediest students in the state are going to school in Christian County. Schenck pointed out that the VPAT program has been more of a struggle in this district than in other places. He felt that the district is at a place to come to the Board about new work and the extraordinary effort that would be needed to bring their students to proficiency. He then introduced Dr. Cornelius, the Christian County Board Chair; Dr. Lovingood, Superintendent; and Carrie Knight, Supervisor of Instruction.

C.B. Akins then asked if VPAT methods are being implemented in Christian County or if they have failed.

Associate Commissioner Schenck commented that in other places, students are named and claimed and said in Christian County there is a struggle to make this happen.

Dr. Lovingood presented Board members with a notebook organized by the five deficiencies identified within their audit. It also contained CATS data. He summarized that Beaumont Elementary pulled out of improvement and is a high poverty school. He went on to say that three elementaries missed AYP by 1 indicator (students with disabilities). Lovingood said that this is the first time the district ever met its goal for

African American students and noted that the district academic accountability index improved 4.5 points in one year. He attributed this to a focus on targeting academic deficiencies. Lovingood reported that at the local board meeting every month, there is a conversation about addressing deficiencies. He then went through each deficiency in the notebook. Dr. Lovingood indicated that VPAT has been a tremendous help and that the district needs the Board's continued support.

At this point, Carrie Knight, Supervisor of Instruction, went over the instructional pieces within the district's work. Some of the things she highlighted were the thoughtful classroom, positive behavioral supports, curriculum alignment, ongoing professional development, intent of all initiatives to a systemic change, learning checks, principal evaluations, mapping and alignment, addressing reading and math specifically and leadership.

C.B. Akins emphasized that he had a concern about not considering times that were convenient for the Department staff to be in the leadership team meetings.

Dr. Lovingood said he would take the concern back to the local leadership committee.

Doug Hubbard expressed that he did not see a sense of urgency in having only a monthly leadership team meeting.

Joe Brothers commented that it really gets down to the data for 2007 CATS that shows some schools have had no improvement in five years and others have had 28 point gains. He was curious as to why some schools are doing very well and others have made no progress.

Dr. Lovingood responded that numerous leadership changes have occurred in some of the schools.

David Webb asked if these have proven to be effective and Dr. Lovingood responded affirmatively.

Joe Brothers then asked how many schools are on track to reach proficiency by 2014 and Dr. Lovingood responded that seven are on track.

Jeanne Ferguson asked what the Board could do to help the district.

Dr. Lovingood replied that last year the district had a highly skilled educator in the district office and this year it does not.

C.B. Akins asked if the community is aware of the great need these schools have.

Dr. Lovingood responded that public meetings have been held and meetings with the Chamber of Commerce have occurred. He said that the churches have not yet been

engaged. Dr. Lovingood again emphasized that the district's highly skilled educator was vital in helping on school improvement efforts.

Bonnie Freeman then asked how many highly skilled educators are currently in the district.

Steve Schenck responded that there are three at the school level and explained that one was at the district level but the person left for another employment opportunity.

Judy Gibbons pointed out that the business community must be more involved.

C.B. Akins emphasized that to have a meeting and invite people will not work. He said that folks must come around the table together and feel they have a dog in the same fight. Akins felt that the Kentucky Department of Education's recommendations have not been taken seriously.

Joe Brothers said to Dr. Cornelius, the local board chair, that the local board needs to be vitally involved in asking district officials why there is no improvement in some of the schools. He indicated that the Department of Education and VPAT personnel need to be involved in these discussions. He went on to challenge the local board to use the outside resources furnished to them and recommended the local board hear from the school councils on a regular basis regarding the learning checks. Brothers suggested that the district come back in three or four months to talk about specific data and the schools that are not on track. He asked to also get a presentation from the VPAT team on their perception of the situation.

Jeanne Ferguson then suggested they visit the district in the future.

C.B. Akins asked for disaggregated data the next time the district comes before the Board.

Chair Brothers thought that the February meeting would be time for the district to come back and commented that then perhaps a spring visit to the district by the Board could be scheduled.

C.B. Akins asked that the February presentation be a joint one with the Department of Education.

Interim Commissioner Noland stated that the VPAT team could send a report in one of the Board's mailings over the next couple weeks giving its assessment of the situation.

David Rhodes noted that in the materials the district gave the Board it showed that there was a session by Department staff that was not satisfactory and asked if there's something that needs to be corrected.

Dr. Lovingood said that the session was a disaster and that the district is now trying to get the training through the Kentucky Association of School Councils.

Janna Vice asked if this was reported to the commissioner and Dr. Lovingood replied that it was not. Vice then asked what the problem was and Dr. Lovingood said the session was disorganized.

C.B. Akins stated that it does not help the Department and the Board if they do not know a situation needs to be corrected.

Interim Commissioner Noland asked that in the future, issues be identified through Steve Schenck so that they can be corrected.

Chair Brothers thanked the district staff for coming and said we must work together to make sure improved learning takes place for students.

### ***OVERVIEW OF THE FACILITIES PLANNING PROCESS AND FUTURE REVISION OF THE SCHOOL FACILITIES REGULATION***

Interim Commissioner Kevin Noland said that because there has been a struggle with some of the district facility plans, the Board will look at the current process for areas that are potential improvements. He asked for feedback today on those and said that staff will bring back the regulation for review to the December meeting.

At this point Larry Stinson went through a PowerPoint presentation that gave highlights of staffing in the Division of Facilities Management, public school construction volume, the condition of public schools, the work of the Division of Facilities Management, the history of the facilities planning process, the steps and the requirements of the facilities planning process, a sample project budget for a school, funding for school construction, recommended regulatory changes from the School Facilities Task Force, recommended statutory changes from the School Facilities Task Force and future challenges for Kentucky schools.

Mark Ryles then highlighted the specific changes recommended by staff found on page 44 of the Agenda Book.

David Rhodes said that a minimum size of student population seems to be strictly enforced on schools, but noted the maximum seems very fluid.

Mark Ryles responded that staff will address that when it bring the regulation back in December.

C.B. Akins asked how many staff are in the Division of Facilities and Mark Ryles responded that there are five. Akins went on to ask if the local planning committee members had to live in the district and Dr. Stinson said they have to be either employed

in or live in the district. Akins went on to ask how far in advance before the actual construction occurs do the bids occur.

Mark Ryles explained that the when estimates are executed it could be 18-24 months before the actual construction but said generally the construction is executed shortly after the actual bids, within about 30 days. He went on to say that when a project is initiated, preliminary figures are used to execute it, but noted that once it is underway, the requirements are refined and costs can be increased. Ryles continued that at each phase of the project, the scope is reviewed to see if there are adequate resources and adjustments are made if necessary. He pointed out that a construction regulation also exists that would need to come forward for changes in the future.

C.B. Akins asked what could be put in place to keep from being blindsided by increased costs.

Mark Ryles said that the Task Force on Facilities recommended that the Department consider an intent to file a BG-1 that would allow a district to secure design services and establish the scope. He also said the Task Force recommended that the R.S. Means costs include soft costs and that site acquisition and development be considered as separate costs.

David Rhodes then asked if there's any consideration being given to using local costs as estimates.

Larry Stinson replied that staff wants to bring the Task Force back together because they had several thoughts on addressing this.

David Webb then pointed out that urgent needs have been funded by the General Assembly and inquired how this has impacted equity.

Dr. Stinson responded that a study done by Picus and Associates expressed concern that prior to the granting of urgent needs project equity existed, but then when these types of projects were granted, it eroded equity. Stinson did point out that these urgent needs projects did eliminate several level 5 schools.

David Webb then asked if it was correct that urgent needs projects don't always go to poor districts.

Associate Commissioner Stinson said this is correct.

Webb then inquired if facilities are evaluated using the same criteria.

Stinson said it is done on the basis of information from the local architect with the rating given by the Department. He noted that the Task Force did give recommendations that perhaps these ratings should be done by one firm so that they are done with one set of eyes.



Webb emphasized that architects have a vested interest in facilities. He then went on to ask whether the formula on the eligibility for bond sales is used consistently.

Mark Ryles replied that staff is very consistent on how bonding potential is calculated. He also said that the fund balance is considered, along with the district's growth toward proficiency and factors such as declining school population.

Webb then asked if before bond sales are authorized whether a completed package of construction bids is required.

Mark Ryles replied affirmatively.

Webb inquired as to whether phased construction in Harlan County has contributed to the problems there.

Ryles responded that it has created negative perceptions.

Joe Brothers then interjected that due to time constraints, the Board would have to come back to this discussion in December when the regulation comes forward for review.

#### ***COMMONWEALTH ACCOUNTABILITY TESTING SYSTEM DATA RELEASE***

Associate Commissioner Ken Draut presented a PowerPoint presentation about the latest CATS data release. On slide 18 of the presentation, Draut gave the following recommendations regarding concordance:

- Concordance tables should be used only for the two-year biennium (2006-07 and 2007-08).
- Starting in 2008-09 and 2009-10 biennium, districts and schools would receive growth charts with goal and assistance lines based on their actual non-adjusted scores on the new CATS in 2007 and 2008.
- If the Board wishes to move forward on this recommendation, staff will modify appropriate regulations for the Board's action.

Interim Commissioner Noland emphasized that the field has communicated to the Department that it wants concordance to be a temporary approach. He then asked direction from the Board.

Consensus of the Board was to accept the Department's recommendation and to proceed with bringing back the appropriate regulations for the Board's consideration in December.

## ***HEARING OFFICER'S REPORT***

Interim Commissioner Kevin Noland said that earlier in the year, Fern Creek High School had filed a performance judgment appeals but said now they have withdrawn it. Noland explained that the hearing officer has asked that the Board pass a motion approving the withdrawal of the appeal. Janna Vice moved to approve the withdrawal and Doug Hubbard seconded the motion. The motion carried.

Noland continued that today he had Kevin Brown, Assistant General Counsel, with him and noted Brown had worked hard on getting the special education regulations amended. Noland went on to say that these regulations were taken before the Administrative Regulation Review Subcommittee where there were some objections and a threat to attach a letter of deficiency. He indicated that staff said work would done on the objections to resolve them and he recognized Teresa Combs from KSBA for being helpful with the resolution of the objections. Noland referred the Board to a one page handout that summarized the changes to resolve the objections as follows:

- Issue 1 – definition of “parent” contained in 707 KAR 1:280: KDE staff recommends adding language to the definition of “parent” in 707 KAR 1:280 (43) which would permit foster parents to serve as “parents” for the purpose of IDEA decision making and other responsibilities when biological and adoptive parents have give written consent.
- Issue 2 – definition of “reasonable time” contained in 707 KAR 1:320, 340 and 360: The federal IDEA regulations provide that certain deadlines be met within a “reasonable time.” KDE staff recommend that “reasonable time” be more specifically defined in the state regulations as follows:
  - Written notice from the school district to parents of an ARC meeting: 7 days prior to ARC meeting.
  - Written notice from the school district to parents of an ARC meeting for disciplinary change of placement or safety issue: 24 hours prior to ARC meeting.
  - Notice of procedural safeguards to parents prior to an ARC meeting: 7 days prior to the ARC meeting.
  - Response by the school district to parent requests for amendment of IDEA records, ten school days from receipt of request by the school district.
- Issue 3 – definition of purpose of mediation in 707 KAR 1:340: KDE staff recommends adding the following sentence to the regulation describing mediation to more fully convey the areas to which mediation is applicable: mediation may address issues or surrounding the education of the child including ongoing alleged

violations of IDEA, compensatory education or any other issue occurring during the child's enrollment in the school district.

David Rhodes moved to accept the changes and Doug Hubbard seconded the motion. The motion carried.

### ***MANAGEMENT COMMITTEE MEETING***

#### **Action/Consent Items**

1. **2007-2008 Local District Tax Rates Levied.** C.B. Akins moved approval of the districts submitted and Doug Hubbard seconded the motion. The motion carried.
2. **District Facility Plans: Clay, Gallatin, Graves and Owen County School Districts.** Chair David Webb indicated that Joe Barrows had asked that the written statement presented to Board members be filed for the record and said that the statement asked the Board not to adopt the Graves County Facility Plan. Webb asked if there were questions. None came forward.

At this point Doug Hubbard moved to remove the Graves and Clay County Facility Plans from the table and to approve them along with the others that have been submitted in the Agenda Book. Kaye Baird seconded the motion and it carried.

#### **Action/Discussion Items**

1. **Jefferson County Alternative School-Based Decision Making (SBDM) Formula.** Chair Webb said that he understands that Jefferson County has submitted the application for this formula the last several years and that it has resulted in more dollars going to schools than the state formula. He then asked why this formula is better than the state formula.

John Collopy from Jefferson County replied that the district provides a funding incentive for attendance and an at risk allocation that results in additional funds beyond the state standard.

Doug Hubbard then moved approval of the alternative SBDM formula from Jefferson County and David Rhodes seconded the motion. The motion carried.

2. **701 KAR 5:130, Drug Testing of Teachers Involved in Illegal Use of Controlled Substances (Final).** Interim Commissioner Kevin Noland directed the Board to page 168 of the Agenda Book where he said the boldfaced words were added at the suggestion of the Board.

Kaye Baird then moved final approval of 701 KAR 5:130 and Doug Hubbard seconded the motion. The motion carried.

### **Review Items**

1. **702 KAR 3:130, Internal Accounting.** Kaye Baird asked about having one checking account except for charitable gaming.

Larry Stinson replied that both of the accounts are subject to audit and that gaming must be reported.

Chair David Webb indicated that Wayne Young at the Kentucky Association of School Administrators had reviewed the regulation and the Redbook and has indicated his support.

Larry Stinson added that the Local Superintendents Advisory Council had no concerns about the regulation.

Michelle Sutton pointed out that it provides a guide for the auditor to use and said it would come back for final approval at the December meeting.

2. **Identification of Watchlist Districts.** Larry Stinson indicated that the same three districts that were previously reported are still the only ones on the watchlist. He reminded the committee that these are Campbellsville Independent, Russell County and Wayne County.

Kay Kennedy noted that staff is waiting for confirmation of the management audits by the independent auditor in those districts.

### ***AUDIT COMMITTEE MEETING***

#### **Review Item**

1. **KDE Audit Updates.** Coming forward for this item were Associate Commissioner Robin Kinney and Hiren Desai from the Kentucky Department of Education and John Cubine and Jennifer Parker from the State Auditor's Office.

Robin Kinney explained that anytime audits are conducted, the state auditor is involved. She said that since staff last reported in 2006, several audits have been conducted and the state auditor has conducted audits since the Department no longer has a full-time auditor on staff. She noted that the audits will be presented in a different order than on the staff note. She indicated that the auditor's office would do a short summary of each audit followed by questions. The following audits were presented:

- Child and Adult Care Food Program Audit – The purpose of this audit is to verify if the for-profit child care centers and adult daycare centers are complying with federal requirements. The Department does follow-up on the exceptions found in the audits. No consistent patterns of problems were found from the audit of six months of records. Thus, Doug Hubbard moved to accept the report and David Rhodes seconded the motion. The motion carried.
- KDE AUP Desk Reviews for FY2006 – 175 school districts and 14 entities were audited to verify that local CPA audits of school districts complied with federal standards. The results of this audit are subject to KDE follow-up. Two audit reports, Washington and Jefferson Counties, were noted as substandard. Information was received as of the date of today's meeting to resolve the Jefferson County errors and KDE is still following up to resolve the Washington County errors. Thus, Doug Hubbard moved to accept the audit and David Rhodes seconded the motion. The motion carried.
- Attendance Audit-AUP – The state auditor was engaged to conduct a procedures review of the attendance process currently used to audit school attendance. The auditor reviewed the attendance audit program used by KDE field staff to perform attendance audits; review the procedures guide, laws and regulations governing school attendance; reviewed the report template used in preparing the reports and attendance audit documentation maintained by KDE and observed the attendance audit process in Madison, Woodford, and Franklin Counties. Eighteen recommendations were submitted to KDE to improve the attendance process. Many of the recommendations are already being implemented.

At this point, Keith Travis asked for the Board to have an update on the Johnson County attendance situation. Kevin Noland responded that a memo would come to the Board in the next two to three weeks.

At this point, Judy Gibbons moved to accept the attendance audit report and Doug Hubbard seconded the motion. The motion carried.

- Annual Statewide Single Audit for FY 2006 – This type of audit is done on all state agencies. KDE also underwent a technology audit and continues to work with the state auditor on all findings. Some of KDE's timelines were not realistic, so it requires further work. Janna Vice then moved to accept the report and David Rhodes seconded the motion. The motion carried.
- Audit of the Harlan County High School construction project – Multiple groups and individuals were interviewed during this audit. The high school will be completed for the next school year. The audit tried to

determine what happened to increase the project costs and found that the initial estimate for building the school was low from the beginning because \$23 million would not have built the facility. A series of events occurred to impact the costs including double digit inflation and increased construction costs due to Hurricane Katrina. No evidence of fraud was found and the problems were not the result of not having detailed procedures. There were many change orders, but compared to similar projects these were not out of line. When the building is completed, it will be one of the most expensive high schools in the state. Two key recommendations came forward as follows:

- Having accurate data is extremely important.
- The small number of staff in the school facilities area is an issue because they are managing around 1,000 projects and cannot be on-site daily. Policy decisions need to be made by the architect, contractor and persons working for the architect to monitor a managed project on a daily basis.

Concerns were expressed by the Board about a debt so steep that the district may not be able to maintain the other schools in the district. Additionally, questions were asked about the rejection of a \$30 million bid and then later a contractor indicating it would reduce the bid, which was taken without a rebid. Questions were asked about the CATS scores and it was conveyed that all eight elementaries met their goals with the district accountability index currently being 77. It was added that the goal for the district next year would be 79.3.

Keith Travis expressed appreciation for the work of the state auditor and said he thought that the school must be finished. He continued that some intervention must occur to limit the costs of school construction projects and that some new controls will have to be put in place. Travis thought the Board needed to revisit the whole process on how facility construction is managed.

Chair Brothers said he is used to cutting things out if the project runs over its projected cost. He noted that if other districts start operating in this fashion, costs will continue to spiral upwards. He agreed that the Board must look at its processes to prevent this from happening in the future.

Associate Commissioner Larry Stinson said that KDE staff supports the district in its efforts and decisions, but staff do not make the district's decisions. He promised to look at all recommendations from the Board and bring back the appropriate regulation to members for them to consider appropriate changes.

David Webb added that the package needs to be together before bonds are sold.

At this point, Keith Travis moved to accept the report but direct a person to monitor the project so that escalation of costs does not continue. Janna Vice seconded the motion.

David Rhodes said that the local people need to step up and pass an additional nickel to pay for the rest of the costs on this school. After further discussion, Keith Travis withdrew his motion and Janna Vice withdrew her second. At this point, Janna Vice moved to accept the Harlan County audit report and David Rhodes seconded the motion. The motion carried with Keith Travis voting no.

Keith Travis noted to Robin Kinney that at the next meeting the committee wanted to be apprised of the commissioner's expenses.

Janna Vice added that a schedule of audits for the committee's review would be helpful and Kevin Noland responded that a memo would be sent to the Board on this in a weekly mailing.

## ***CURRICULUM, INSTRUCTION AND ASSESSMENT COMMITTEE MEETING***

### **Action/Discussion Items**

1. **703 KAR 5:170, Kentucky Highly Skilled Educator Program Criteria (Final).** Interim Commissioner Noland referred the committee to page 219 and reminded them that the regulation was reviewed in August. He explained that in the past, the budget bill contained language relative to a cap on Highly Skilled Educator salaries that is no longer there. Noland stated that it is now necessary to place the salary calculation in regulation so that it appears in law. He summarized that the proposed language amount in the regulation is 135% with a cap of no more than the highest average principal's salary in the district with the highest average principal's salary, which has been past practice. Noland also noted that the language indicates that whatever pay increase occurs in the home district of the highly skilled educator applies to him or her.

At this point, Judy Gibbons moved final approval of 703 KAR 5:170 and Jeanne Ferguson seconded the motion. The motion carried.

### **Review Items**

1. **Kentucky Educational Collaborative for State Agency Children (KECSAC) Update.** Associate Commissioner Jamie Spugnardi indicated that part of the reason that the KECSAC and Kentucky Youth Advocates report were together is because they are related to the same student population. She then asked Nijel Clayton to remind the committee of the definitions and focus of the programs associated with this population of students.

Nijel Clayton shared the following:

- The difference between A5 and A6 programs is that the A5 program is district operated and district controlled and in an A6 program, generally a local district teacher is serving state agency children in a non-district building or institution.
- A summary of all of the discussions with the Kentucky Board of Education on A5 and A6 programs was presented.
- This student population is very mobile with 23,000 students in A6 programs over an entire year and an estimated 45,000 students in A5 programs over a year.

Division Director Linda Pittenger then introduced Dr. Norman Powell, KECSAC Director, and Dr. Ronnie Nolan, KECSAC Assistant Director, to present the annual report. Dr. Powell shared the following:

- Progress has occurred in A6 student performance as demonstrated by pre- and post-test results.
- Growth has also occurred in curriculum, assessment, instruction and professional development.
- KECSAC served 54 school districts, 105 programs and 23,000 students.
- The agency has five full-time employees and experienced a 4% budget growth rate.
- The Kentucky Youth Advocates report was reviewed by KECSAC staff and was found to be of some value as to its recommendations. The lack of investigative vigor was questioned.

Dr. Nolan then made the following comments:

- KECSAC appreciates being included in the Board's priorities.
- CATS results were received yesterday and 1,380 students took CATS in a KECSAC program with the rest taking the test in their home schools. There is still a lot of room for growth on these.
- Pre- and post-tests were given to students while in the program to reflect the learning that occurred while there. 81% of students who were in the program for more than 90 days gained at least ½ grade in reading and 67% gained at least a full grade. In math, 84% gained at least ½ grade and 65% gained at least one full grade.
- 70% of these students come into the program below grade level in reading and math and present a huge academic hurdle to overcome.
- Next steps are to identify funding sources for the program, implement an alternative assessment plan and find funding for it, continue to collect outcome data and get a dialogue going to talk about how to measure proficiency for state agency children.
- The first year of each program implementing a program improvement plan is complete and most of the goals center on curriculum, assessment and instruction.



Dr. Powell then shared that KECSAC is conducting a research study in the area of transition that will examine the quality of how students move from one program to another and out of the program to work. He indicated the objective is to identify and describe the key components of successful transition practices, quality transition planning, types and quality of supports and obstacles and challenges to successful transition. He noted that the study will take a year.

During the presentation, concerns were expressed about the quality of the transition process, the availability of accurate data on these students and the academic performance of the students.

2. **Report from the Kentucky Youth Advocates on the study of alternative education.** Deputy Commissioner Elaine Farris stated that Department staff is trying to connect all of the pieces relative to A5 and A6 students. Thus, she said that a contract was entered into with the Kentucky Youth Advocates (KYA) to do a study on alternative education. Farris indicated that Dr. Terry Brooks of KYA would present KYA's findings and recommendations followed by Department staff presenting next steps.

Dr. Brooks presented the following:

- Some exemplars in alternative education were present in the audience and were recognized as top programs.
- These exemplars are the exception to the rule, which denote a crisis in the state for alternative education.
- A high level of education must be ensured for all students in the state.
- If the report had been presented one month ago, it would have been positive; however, the partnership with the Department has changed and their response is not supportive.
- Crossroads issues include: the pace of change is a critical condition and needs to be swift; the fiscal supports must increase; the approach must be bold and dramatic and the length of the school day must be enforced.
- A revolution must occur in A5 and A6 programs.
- KYA is troubled by the Department's response and is willing to redouble its efforts to work with them and the Board to improve education for these students.

Chair Janna Vice stated that she was in a quandary because the goal of the presentation was to share the findings and recommendations so that the committee would know where the work needed to go. However, she noted that the focus of the comments was not on the findings and recommendations.

Interim Commissioner Kevin Noland commented that when he saw the first draft of the report, it was obvious that it was based in large part on perceptions and KYA was then asked to talk with folks who work with these schools. He went on to say that there is some problem with the timing of the recommendations because we are already in the middle of the 2007-08 school year. Noland pointed out that

one of the Board's budget priorities is alternative education and he said more discussion can take place during the budget discussion on how to focus these funds. He emphasized that the Department wants to work with all partners and stated that KYA made some good recommendations that merit looking at what the next steps are.

Committee Chair Vice said that she understands the urgency of the issues but pointed out that change requires a collaborative process. She felt that more conversations were necessary to make sure all those involved are on the same page.

Jeanne Ferguson then asked if Dr. Brooks could briefly provide some of KYA's recommendations.

Dr. Brooks shared the following:

- Establish a tracking data base for students enrolled in alternative programs.
- Review and revise the current classification system.
- Address the issue of teacher quality and certification.
- Analyze and craft recommendations around fiscal practices and funding structures.
- Develop data-driven accountability measures explicitly designed for alternative programs.
- Develop a curriculum review process to ensure an explicit curriculum for every alternative site or program.
- Develop a "default" curriculum as an option for alternative schools and programs.
- Develop specific professional development initiatives to support "out of field" alternative program teachers with a focus on the academic knowledge base.
- Expand auxiliary learning programs to support alternative students.
- Support schools in creating cultures of success.

Bonnie Lash Freeman stated that the light was shown on the issues at KSB and KSD through a study and as a result quick responses occurred to solve many of these. She felt that it sounds like the same type of focus is needed on A5 and A6 programs. Freeman emphasized that a response must come forward to these issues.

Committee Chair Vice noted that best practices for these students must be shared. She asked to hear next steps from the Department staff.

Associate Commissioner Jamie Spugnardi pointed out that the Board received a response to the study from the Department that centered on data, teacher quality, professional development, curriculum and assessment and culture. She

recommended that the Department take all reports back and bring in an advisory group to come up with the next steps that will be brought back to the Board.

Deputy Commissioner Farris added that these students will also be part of the refocusing secondary initiative and the conversations that occur as the Department aligns its resources.

3. **Title III English Language Learners (ELL)/Limited English Proficient (LEP) and Immigrant Students' English Language Proficiency (ELP) Standards.**

Coming forward for this discussion were Jamie Spugnardi, Michael Miller, Greg Finkbonner and Shelda Hale. Michael Miller began by indicating that there are 128 districts in Kentucky who have English Language Learners. He stated the goal is to have all students become proficient in social and academic English in order that they can in turn become proficient on the KCCT and other measures. Miller shared that the recently released CATS data shows that students who exited Limited English Proficient (LEP) services two years prior to the spring 2007 assessment at the elementary level had a nonadjusted academic index of 96.1. He went on to say that students currently identified as LEP at the same point in time had an index of 79; thus, he concluded that two years after becoming proficient in social and academic English, these students are doing very well at the elementary level on the KCCT. Miller reported that the same is true at middle and high school but noted that the results seem to decline as students progress through school. He said that today, staff is bringing forward the standards for assessing the language proficiency of English Language Learners for review and would appreciate any feedback on next steps. Miller then introduced Greg Finkbonner, Humanities Branch Manager.

Finkbonner noted that the Board had been sent a memorandum containing the requested data on ESL teacher certification and highly qualified teacher requirements for teachers of English Language Learners. He then introduced Shelda Hale, Title III consultant, and Dana Morrison, contract employee who did a lot of work on the standards.

Ms. Hale reported that the standards are research-based and clarified that these are not content standards but instead are used to access the content. Hale stated that a study has been conducted relative to the alignment of Kentucky's Core Content in reading, math and science and the Model Performance Indicators in the World Class Instructional Design Consortium English Language Proficiency Standards with the results being that the relationship between the two does meet No Child Left Behind requirements. She asked for any guidance or input the Board had to offer.

Committee Chair Janna Vice emphasized that it is important to move in this direction to ensure that all students are proficient in English.

***SPECIAL RECOGNITION***

At this point Chair Joe Brothers read the following resolution in honor of Keith Travis, former Kentucky Board of Education Chair:

***Resolution Honoring Keith Travis  
By  
The Kentucky Board of Education  
Commonwealth of Kentucky***

- Whereas,***           The Kentucky Board of Education's vision is "Every child-- Proficient and prepared for success";
- Whereas,***           Since joining the Board in April 1998, Keith Travis has dedicated himself, at great personal sacrifice, to realizing this vision for every student in the Commonwealth;
- Whereas,***           Keith Travis has performed at the distinguished level, with solid leadership of the Kentucky Board of Education as its chair from 2004 to 2007;
- Whereas,***           Keith Travis has exemplified the virtues of fairness and integrity in leading the Board through decision-making;
- Whereas,***           Keith Travis has stood firm in the face of all adversity regarding the Board's longstanding commitment to assist students and schools to achieve high standards and reach proficiency by 2014;
- Whereas,***           Keith Travis is held in high regard by his colleagues;

**NOW, THEREFORE,** be it resolved by the Kentucky Board of Education to recognize and extend its sincere gratitude to Keith Travis for his outstanding service to the students of this Commonwealth.

**Done in the city of Frankfort, this  
third day of October, in the year Two  
Thousand and Seven.**

Kaye Baird moved approval of the resolution and Doug Hubbard seconded the motion. The motion carried.

Chair Brothers then presented a framed copy of the resolution to Mr. Travis along with some tokens of appreciation from the Board.

## ***KENTUCKY BOARD OF EDUCATION (KBE) BUDGET PRIORITIES AND PREPARATION OF THE 2009-2010 BIENNIAL BUDGET REQUEST***

Interim Commissioner Noland reviewed that at the September meeting, the Board established its strategic priorities and tentatively chose the top five budget priorities as follows: 1. 3% increase in SEEK, 2. Full-day kindergarten, 3. Scholastic audits and assistance programs to low-performing schools, 4. Gifted and talented program, and 5. Alternative education program. Noland then gave the following recommendations for budget priorities 6-10: 6. Parent involvement initiative, 7. Preschool at 200% of poverty, 8. SEEK district facilities funding, 9. SEEK transportation add-on and 10. Refocusing secondary education for student success.

After much discussion on the ten items listed above, the ten priorities were confirmed as named with the exception that Gifted and talented was increased to \$10 million each year of the biennium and full-day kindergarten was designated to be implemented in a phased-in approach. At this point, Judy Gibbons moved that KDE staff be authorized and directed to move forward with the preparation and submission of the 2009-2010 biennial budget in accordance with the staff note as presented and discussions in today's meeting, including the authority to request additional staff as the commissioner deems necessary. Janna Vice seconded the motion and it carried.

## ***KENTUCKY BOARD OF EDUCATION 2008 LEGISLATIVE AGENDA***

Interim Commissioner Kevin Noland indicated that the proposed legislative agenda could be found on page 304 of the Agenda Book and clarified that these items are ones that would not have a fiscal impact. He then went through the items in the proposed legislative agenda.

After going through the items, Kaye Baird moved their approval and Doug Hubbard seconded the motion.

Judy Gibbons asked that compulsory attendance be added to the legislative agenda and moved that this be added as an amendment to the motion. David Rhodes seconded the motion to amend the legislative agenda and it carried.

A vote was then taken on the amended legislative agenda to include compulsory attendance and it carried.

## ***APPROVAL OF ACTION/CONSENT AGENDA ITEMS***

On behalf of the Management Committee, Chair David Webb moved approval of all submitted School District Tax Rates Levied and the motion carried.

Relative to the district facility plans, Committee Chair Webb moved on behalf of the Management Committee to remove the Graves and Clay County plans from the table and approve them along with the Gallatin and Owen County plans. The motion carried.

### ***REPORT OF THE MANAGEMENT COMMITTEE ON ACTION/DISCUSSION ITEMS***

On behalf of the Management Committee, Chair David Webb moved approval of the Jefferson County alternative school-based decision making (SBDM) formula and 701 KAR 5:130, Drug Testing of Teachers Involved in Illegal Use of Controlled Substances (Final). The motion carried.

### ***REPORT OF THE CURRICULUM, INSTRUCTION AND ASSESSMENT COMMITTEE ON ACTION/DISCUSSION ITEMS***

On behalf of the committee, Janna Vice moved final approval of 703 KAR 5:170, Kentucky Highly Skilled Educator Program Criteria and the motion carried.

### ***REPORT OF THE KBE AUDIT COMMITTEE***

Committee Chair Keith Travis reported that the committee reviewed five audits as follows: Harlan County High School Construction Project, Attendance Audit, KDE-AUP Desk Reviews for FY 2006, Child and Adult Care Food Program, and Annual Statewide Single Audit for FY 2006. On behalf of the committee, Travis moved approval of all five. The motion carried with Keith Travis voting no on the Harlan County High School Construction Project Audit only.

### ***BOARD MEMBER SHARING***

Doug Hubbard brought forward the following items:

- The small number of school districts on the year-round calendar is troubling. This should be pursued due to the fact that students do benefit from increased instructional time.
- Emphasis needs to be placed on moving the testing window as late in the year as possible.

Interim Commissioner Noland said these could be discussed in the Curriculum Committee on a future agenda and noted that getting test results back in time to meet No Child Left Behind requirements becomes a problem when testing is moved back later in the year. He said that online testing is the solution to this issue.

### ***INTERNAL BOARD BUSINESS***

Chair Brothers commented that the discussion on the Policy Manual would be delayed until a later meeting. He continued that as far as the criteria for the Sam Robinson and Joe Kelly Awards, Bonnie Lash Freeman would submit a proposal on these criteria after the selection of this year's award winners. Additionally, Brothers appointed Judy Gibbons chair of this year's Joe Kelly Award selection committee with Bonnie Lash Freeman and Jeanne Ferguson as the committee members. Brothers then indicated that

the KSB/KSD reports would be given in the Curriculum Committee's meetings and that Kaye Baird has been asked to serve as the Board's liaison to these schools with Bonnie Lash Freeman and C.B. Akins assisting her. As far as the commissioner's search, Chair Brothers asked each member to review the phone interview questions and stated that the semifinalists will be asked to fill out an application and reply to the commissioner's criteria by the middle of October so that finalists could be identified for formal interviews on November 13 and 14.

### ***LITIGATION REPORT***

Judy Gibbons moved to enter into closed session to discuss litigation per KRS 61.810 (1) (g) at 1:15 p.m. Doug Hubbard seconded the motion and it carried.

At 1:30 p.m., the Board came out of closed session on a motion by Keith Travis and a second by Judy Gibbons. The motion carried.

### ***ADJOURNMENT***

Doug Hubbard moved to adjourn the meeting at 1:32 p.m. and Kaye Baird seconded the motion. The motion carried.